

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NICK PEREZ,
Plaintiff,
v.
BANANA REPUBLIC, LLC,
Defendant.

Case No. [14-cv-01132-JCS](#)

**ORDER DENYING MOTION TO
STRIKE**

Re: Dkt. No. 40

This is a purported collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 206 and 207. Plaintiff Nick Perez moves to strike several affirmative defenses and a prayer for attorneys’ fees from the Amended Answer (Dkt. 39) filed by Defendant Banana Republic, LLC. *See* Pl.’s Mot. to Strike (Dkt. 40). Each of the affirmative defenses relates to issues that will necessarily be litigated either for class certification or the merits of the case. The Court therefore finds that striking these defenses would not in any way limit the “expenditure of time and money that must arise from litigating” the case. *Cf. Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010) (citation omitted). Nor has Plaintiff shown any prejudice resulting from Defendant’s request for attorneys’ fees. Granting the Motion would be “an empty formalism.” *Hernandez v. Balakian*, No. CV-F-06-1383 OWW/DLB, 2007 WL 1649911, at *9 (E.D. Cal. June 1, 2007). The Motion is DENIED, and the hearing is VACATED.¹

IT IS SO ORDERED.

Dated: October 10, 2014


JOSEPH C. SPERO
United States Magistrate Judge

¹ The parties have consented to the jurisdiction of the undersigned magistrate judge pursuant to 28 U.S.C. § 636(c).